

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LMD INTEGRATED LOGISTIC  
SERVICES, INC., a Delaware  
corporation,

Plaintiff,

v.

MERCER DISTRIBUTION SERVICES,  
LLC, a Washington limited liability  
company; and MERCER TRANSPORT,  
LLC, a Washington limited liability  
company,

Defendants.

CASE NO. C10-1381 BHS

ORDER GRANTING IN PART  
AND DENYING IN PART  
PLAINTIFF'S MOTION TO  
RETAX COSTS

This matter comes before the Court on Plaintiff LMD Integrated Logistic Services, Inc.'s ("LMD") motion to retax costs (Dkt. 168). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants in part and denies in part the motion for the reasons stated herein.

## I. PROCEDURAL HISTORY

On September 24, 2012, the Court issued its findings of fact and conclusions of law awarding final judgment in favor of LMD. Dkt. 150. On October 9, 2012, LMD filed a motion for an award of costs. Dkt. 153. On November 6, 2012, the Clerk granted the motion in part and denied it in part. Dkt. 167. On November 12, 2012, LMD filed the instant motion to retax the costs that were denied. Dkt. 168. On November 26, 2012, Defendants Mercer Distribution Services, LLC and Mercer Transport, LLC (“Mercer”) responded. Dkt. 170. On November 30, 2012, LMD replied. Dkt. 171.

## II. DISCUSSION

There is a presumption in favor of an award of costs and the Court must specify reasons for refusing to award costs. *Association of Mexican-American Educators v. State of California*, 231 F.3d 572, 591–592 (9th Cir. 2000).

The Court awards the following costs with supporting reasons:

1. Fees for transcripts: The request is granted because the expedited charge (\$480) was necessary.
2. Fee for making copies: The request is granted in part and 80% of the copying fees shall be awarded. The reason for disallowing 20% is because LMD concedes that “virtually all” of its copying costs were incurred for outside use (Dkt. 171 at 3) and the Court finds that 80% (or \$5,762.10) is fair and reasonable.
3. Court-appointed expert: The request is denied because either party could have avoided this cost by providing the Court with an accounting report using Generally Accepted Accounting Principles prior to trial. Further, as Mercer argued, neither party’s

1 “accounting” submission was error free, and they certainly could not be represented as  
2 performed utilizing GAAP. Therefore, the Court finds that both parties are responsible  
3 for the expert and shall split the cost equally.

4 4. Costs for travel: The requests for the deposition (\$1,709.97) and trial  
5 attendance (\$6,055.79) are granted. However, the Court denies the request for meeting  
6 with the expert and for attending closing argument because the activities were not  
7 necessary.

### 8 **III. ORDER**

9 Therefore, it is hereby **ORDERED** that LMD’s motion to retax costs (Dkt. 168) is  
10 **GRANTED in part** and **DENIED in part** for a total award of costs of \$22,420.36.

11 Dated this 17<sup>th</sup> day of December, 2012.

12  
13 

14 **BENJAMIN H. SETTLE**  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22